IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3448 OF 2006

Gote Gorakh @ Balu Arjun Applicant
versus
State of Maharashtra Respondent

U.P.Warunjikar for applicant.
P.A.Pol, APP for respondent.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 25th September 2006

PC :

1. The applicant is original accused no.6 in CR No.15 of 2006 registered at Shahapuri Police Station. The offences alleged are punishable under sections 395, 342 and 506 of IPC.. The applicant was arrested subsequently inasmuch as allegation is that he is residing in Pune District whereas offence took place at Kolhapur on 22nd January 2006. A Jeweller's Shop was looted in the night and upon watchman's statement, the accused came to be arrested.

2. My attention is invited by Shri Warunjikar to the order passed by the Trial Court in respect of

co-accused. The learned Trial Judge has refused to grant benefit of parity to the applicant more particularly because the applicant was identified by the watchman who had been issued threats at the time of incident. Similarly, they have been identified by witnesses during the identification parade.

3. With the assistance of Shri Warunjikar and the learned APP I have perused the orders in the case of co-accused. In my view, as far as present application is concerned, apart from the fact that he is residing in another district, the other reason appears to be as stated above.

4. However, the Trial Court while delivering an order on the bail application of co-accused Yalappa and others, has not attributed any separate role to them. All these persons are identified and arrested subsequently. In addition, the applicant has surrendered on his own.

5. The Trial Court, therefore, while enlarging other applicant, could have enlarged the applicant by imposing stringent conditions to take care of its apprehension of availability of

present applicant at the trial. So also, when investigations are complete and charge sheet is filed, the applicant also deserves to be enlarged on bail. Hence following order.

6. ORDER :-

(i) The applicant shall be enlarged on bail till conclusion of trial in connection with C.R.No.15 of 2006 registered with Shahapuri Police Station, Kolhapur, subject to furnishing a personal bond of Rs.25,000/- (Rs.Twenty five thousand only) with one or two local sureties in the like sum;

(ii) The applicant shall attend Shahapuri Police Station, Kolhapur once a week, initially for a period of two months and thereafter as directed by the Trial Court;

(iii) The applicant shall furnish his residential address to the Investigating Authority before his release on bail and shall not change his residence till conclusion of trial without prior intimation to the Investigating Authority;

(iv) The bail is granted subject to condition that the applicant shall not, directly or

indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with prosecution evidence;

(v) The applicant shall co-operate with the Trial Court for expeditious disposal of the trial. Any attempt by the applicant to delay the trial may be a ground for cancellation of bail;

(vi) Any observation/s made in this order shall not be constructed as any finding or any expression of opinion on the merits of the case at the time of trial;

(vii) Application is disposed of in above terms.

(S.C.DHARMADHIKARI, J.)